IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.803 of 2007

DATE OF ORDER: 15.2.2007

Rajiv Rastogi

...Petitioner(s)

Versus

M/s Shree Motor's Pvt Ltd

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. I.K. Mehta, Senior Advocate with
Mr. M.S. Kohli, Advocate.

M.M. AGGARWAL,J

This is petition filed by the landlord against order dated 30.10.2006 passed by the Rent Controller, Faridabad whereby ejectment petition filed by the petitioner against respondents was dismissed.

It comes out that originally landlord had filed a petition for ejectment on the ground of non-payment of arrears of rent. Even during the pendency of the petition, he filed application for amendment taking plea that respondent No.1 had sublet the premises to respondent No.2. Rent Controller then made the impugned order dated 30.10.2006 that since the arrears of rent had been tendered and accepted, amendment could not be

allowed and petition would not be maintainable and as such the same was dismissed.

Counsel for the petitioner points out that arrears of rent had been received under protest and the tenant was still in arrears of rent. If the amendment was not to be allowed, petitioner could not be thrown away.

I have gone through the facts of the case and order dated 30.10.2006.

If the rent had been received by the landlord under protest then the Rent Controller has to decide the petition on merits whether the tenant was in arrears of rent or not. However, ground of subletting could not be permitted.

Under these circumstances, petition is allowed and order dated 30.10.2006 passed by the Rent Controller, Faridabad is set aside to the extent that let the Rent Controller decide the petition on merits as far as the ground of ejectment of arrears of rent is concerned.

February 15, 2007 (M.M. AGGARWAL)
manoj JUDGE